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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/987,634	11/15/2001	Minoru Kubota	Q67291	7418

7590

02/10/2003

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EXAMINER

LUEBKE, RENEE S

ART UNIT

PAPER NUMBER

2833

DATE MAILED: 02/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application N .

09/987,634

Applicant(s)

KUBOTA &amp; SERIZAWA

Examiner

Renee S. Luebke

Art Unit

2833

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1 and 2 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 2 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 January 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2. 6) ☐ Other: \_\_\_\_\_

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1. The drawings are objected to because Figs. 3 and 4 should be labeled as "prior art" or something similar. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nestor, et al. in view of Date, et al. The oscillating switch of Nestor comprises a lower casing 70, 41 a circuit member 58 with a hole on each edge, rubber contact portions 54, 54, an upper casing 30, 41, an operating knob 12 and a click mechanism. The click mechanism includes a cam surface 48, 50, 52 on the lower casing, a pressing element 30 and an urging member 28 which passes through the holes of the circuit member. The switch of Nestor lacks a rubber switch member having a through hole since the rubber contact portions are individually arranged. However, the similar switch of Date teaches the use of contact portions that are connected by a rubber switch member having a through hole. The use of a connecting rubber switch member allows more accurate and faster placement of the rubber contact portions. For this reason it would have been obvious to attach the rubber contact portions of Nestor with a rubber switch member as taught by Date.

4. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nestor and Date as applied to claim 1 above, and further in view of Ogawa, et al. The clicking mechanism of Nestor is formed from the distal end of the operating

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portion and the lower casing. It is not of the type claimed. However, the similar device of Ogawa is an example of the well known alternative (see Fig. 9a). It uses a cam surface on the operating portion and an urging member held in a receiving recess of the housing. Such an arrangement allows setting of the pressure since different springs can be used. For this reason, it would have been obvious to use the urging member and cam arrangement on the distal end/housing interface of Nestor.

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The switch of Karasik comprises a click mechanism similar to that of the present invention.

6. **Any response to this action may be mailed to:**

Assistant Commissioner for Patents  
Washington, DC 20231

**or faxed to:**

(703) 872-9318 or 308-7722 or 308-7724  
(informal or draft communications should be clearly labeled  
"PROPOSED" or "DRAFT")

**Hand-delivered responses** should be brought to:

Crystal Plaza 4, Fourth Floor (Receptionist)  
2201 South Clark Place, Arlington, Virginia.

7. Any inquiry concerning this communication from the examiner should be directed to Mrs. Renee Luebke whose telephone number is (703) 308-1511.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mrs. Paula Bradley, can be reached at (703) 308-2319.



Renee S. Luebke  
Primary Patent Examiner  
February 4, 2003